

Local Rules

The City of Murphy Municipal Court



The City of Murphy Municipal Court

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RULE ONE: AUTHORITY

1.1 Authority for Rules

Under the inherent power and duty of all Texas courts as codified in Section 21.001 of the Texas Government Code, the following Local Rules of the Municipal Court of the City of Murphy, Texas (hereinafter “Rules”) are promulgated and shall apply and govern any and all proceedings held within the Municipal Court of the City of Murphy, Collin County, Texas. These Rules are adopted for the purpose of securing uniformity in those proceedings and in order to promote justice. It is intended that these Rules be construed consistent with Article 45.001 of the Texas Code of Criminal Procedure. Furthermore, these Rules may be amended from time to time so as to be consistent with State and Federal law and the Ordinances of the City of Murphy.

1.2 Application

The Rules apply to attorneys and their staff members, to each Defendant representing himself/herself (hereinafter “pro se Defendants”), to all court staff, to witnesses and observers. Failure to comply with these rules may result in the imposition of sanctions, including contempt.

1.3 Effective Date

These Rules are effective July 24th, 2014 and supersede all previous rules and procedures of the Murphy Municipal Court that are in conflict with these Rules.

1.4 Availability

A copy of these Rules shall be available in the courtroom of the Murphy Municipal Court and on the City of Murphy website, which can be accessed at www.murphytx.org.

RULE TWO: COURTROOM DECORUM

The Court is charged with the responsibility of maintaining proper order and decorum. Accordingly, the Court shall require all litigants, jurors, witnesses, lawyers, and others with whom the Judge deals in an official capacity, to conduct and dress in a manner deemed fitting and respectable.

2.1 Order

Order shall be maintained at all times. Violation of this rule can result in a reprimand by the judge, expulsion from the courtroom or a contempt citation.

2.2 Conduct Required of All Persons Attending Court

Court is in session whenever the Judge is on the Bench. While the Court is in session, unless the Judge directs otherwise, the following conduct must be observed:

- a. **Consent to Search.** All persons entering the Murphy Municipal Court consent to the search of their persons and property in their possession for weapons and contraband.
- b. **Weapons.** Absolutely no weapons of any type shall be brought into the courtroom, except if a weapon is intended to be offered as evidence in a pending matter. Commissioned peace officers acting in their official capacity may bring weapons into the courtroom. Having a concealed handgun permit is NOT an exception to this rule. The Judge shall have the discretion to have any object removed from the courtroom.
- c. **Electronic Devices.** All electronic devices must be turned off or in silent mode in the courtroom. Counsel may bring a cell phone or computer into the courtroom as long as the devices are on silent or turned off and are not used to record the court's proceedings. Failure to obey this rule may result in the Bailiff confiscating your electronic device during the court's proceedings.
- d. **Recording Devices.** No audio or visual electronic recordings may be made of any court proceedings, hearings, or trials. The recording of any court proceedings is prohibited unless the Presiding Judge approves of this, after a written request. The use of any device including a cell phone device, camera, video recorder, smart phone, laptop, thinkpad, electronic tablet, etc. and any other recording devices capable of recording are prohibited in the courtroom. Any person caught recording proceedings without previous approval from the Presiding Judge may be held in contempt of court and may have their recording device seized as evidence.
- e. **Food, Drinks, Gum.** No food, drinks, or gum chewing is allowed in the courtroom, except with permission by the Judge.
- f. **Hats.** No hats, bandanas, do-rags, or any head covering shall be worn in the courtroom, unless such item is of a religious nature or for medical reasons.
- g. **Attire.** All persons shall be dressed appropriately so as to maintain the dignity, integrity, decorum, seriousness and professional atmosphere of the Court and the administration of justices. As such, no inappropriate attire, including:

1. Shorts and cut offs;
2. Muscle shirts, shirts with no sleeves, clothing with offensive, vulgar, racist, sexist, obscene, lewd, or suggestive words, slogans, depictions, or pictures;
3. Skirts or dresses that are short (less than halfway from knee to top of thigh);
4. Low-cut blouses or tops;
5. Clothing that is dirty, torn or ragged; and
6. Clothing that is too tight, too short, excessively baggy, pants worn below the waistline

will be allowed. Defendants who appear in prohibited attire will be turned away and will be required to post a cash bond for a new court date. Sunglasses should also be removed prior to entering the courtroom.

- h. **Tobacco.** No smoking or use of tobacco products, including snuff or chewing tobacco in the courtroom.
- i. **Seating.** All persons in the courtroom shall be seated except when addressing the Judge or jury, or when directed to rise by a court officer, or with the permission of the Judge.
- j. **Talking.** No one may talk while the Judge is talking. Unless a party is making a legal objection in a proceeding, only one person may speak at a time. Participants shall address each other in a respectful manner. No “sidebar” comments will be allowed. No loud, profane or disruptive talking will be allowed.

2.3 Conduct Required of All Attorneys and Pro-Se Defendants

Attorneys shall observe both the letter and spirit of all Canons of Ethics, including those concerning improper *ex parte* communications with the Judge and those dealing with discussion of cases with representatives of the media. In addition:

- a. Attorneys shall advise their clients and witnesses of the Local Rules that may be applicable, and shall ensure that their clients and witnesses follow and fully adhere to all such rules.
- b. *Pro se* Defendants (defendants representing themselves without retaining an attorney) shall conform their behavior to all provisions applicable to licensed attorneys.
- c. All parties shall be prompt in arriving for Court and attending to Court business. Any party who arrives late may risk the issuance of a warrant if they are not present when the docket is called after Court goes into session.

- d. Once a party has entered the Courtroom and is appearing before the Court, he or she shall not leave without obtaining permission from the Judge.
- e. The State shall be seated at the counsel table nearest the jury box. Counsel for the defendant and pro se defendants shall be seated at the counsel table to the left of the State's counsel table.
- f. During trial or any hearing, all participants in the proceedings shall address each other and members of the jury without familiarity. The use of first names shall be avoided. Address the Court as "Judge" or "Your Honor". Address opposing parties, counsel, witnesses, and Court officers as "Mr.", "Mrs.", "Miss", "Officer", etc. Do not use first names, except with children 17 years of age or younger.
- g. During trial or any hearing, Attorneys and *Pro-Se* Defendants shall remain seated at the counsel tables at all times except: when the Judge enters or leaves the courtroom; when addressing the Judge or jury; when it is necessary to handle documents or exhibits or when granted permission from the Court to approach the bench, approach a witness, or approach an exhibit; and when objecting to opposing counsel.
- h. Attorneys and *Pro-Se* Defendants shall not approach the Judge's bench except with permission from the Court.
- i. Attorneys and *Pro-Se* Defendants shall not lean on the bench, sit on rails or tables, or appear to engage the Court in a confidential manner, unless requested by the Court.
- j. The Court may enforce these rules of conduct and decorum by appropriate action or sanctions.
- k. Nothing herein shall prevent or prohibit the further adoption of new rules or revision of these rules.

2.4 Bailiffs

The Bailiff or Bailiffs shall be present at all times when the Court is in session or in recess, unless excused by the Judge. Bailiffs should be in the courtroom at all times when the doors are unlocked and defendants are in the courtroom. No duty shall be assigned to the Bailiff without prior approval of the Judge. The Bailiffs are given full

authority to enforce and are ordered to enforce all rules of conduct and decorum and other duties assigned by the Judge.

2.5 The Media

As a general rule, broadcast media will not be allowed to record any court proceedings inside the courtroom. Any exceptions may be made by the judge presiding in each particular case. Broadcast media wishing to film proceedings from outside the Courtroom must position equipment so as not to impede ingress or egress to or from the Courtroom.

RULE THREE: ARRAIGNMENT

3.1 Arraignment Setting

The court appearance date that appears on a citation or summons is an arraignment setting.

3.2 Arraignment Docket

The purpose of the arraignment setting is to determine the Defendant's plea to the offense charged and for the Court to apprise Defendants of their Constitutional Rights. At the arraignment setting, which may be either in open court (plea docket) or at the Court Clerk's window (pursuant to Standing Orders), the defendant may enter a plea of guilty, not guilty, or nolo contendere (no contest). If a not guilty plea is entered, the case will be set for a pre-trial conference at a later date. If the defendant wishes to have a trial by jury, a jury trial request may be made at the arraignment or at the pre-trial conference.

RULE FOUR: ENTRY OF PLEA, APPEARANCE, BOND

4.1 Written Plea

All pleas shall be in writing, except for pleas entered in open court before the judge. Payment in full of the fine on a case pending shall constitute a plea of nolo contendere and a waiver of jury trial as allowed by law. A plea can only be entered by the Defendant or Defendant's attorney. No one else can enter a plea for Defendant. Telephone calls DO NOT constitute an appearance.

4.2 Plea by Mail or Fax

Pleas by mail or fax should be received by the court by the appearance date on the citation, summons, or notice to appear. The date of the postmark shall be deemed the date of filing of any plea received by mail. The date of receipt of a FAX by the Clerk's office shall be the date of filing of such plea.

4.3 Plea by *Pro Se* Defendant

Payment in full of the fine on a case pending shall constitute a guilty/no contest plea and a waiver of jury trial. No partial payments shall be accepted without a plea entered in person. A plea of not guilty by a *pro se* Defendant will result in a trial setting. The Defendant shall inform the court whether he/she desires a jury trial or a bench trial (before the judge). Pleas of not guilty will require the Defendant to appear in person for a pre-trial hearing.

4.4 Appearance

An attorney must make an appearance in a case in writing filed with the Clerk of the Court, which appearance shall include the name, address, email address, fax number, and telephone number of the attorney. A defendant who is not represented by an attorney must appear at all court settings of his/her case(s).

4.5 Request for Assistance

A request for a language interpreter should be made in writing at the time a plea is entered. Requests for assistance from person with disabilities should also be made at the time the plea is entered.

4.6 Bond Required

For any Defendant with an active alias warrant, the attorney or *pro se* defendant shall be required to post a cash or surety bond before the warrant is lifted and a court date is set. No bond is required if the Defendant or his attorney pleads guilty.

RULE FIVE: NOTICE

5.1 Responsibility

It is the responsibility of all persons with business before the Court to:

- a. determine the date, time, and nature of each setting of the case(s) and,
- b. update or notify the Court of any changes of address, telephone number and email address of the Defendant or of Counsel for the Defendant.

5.2 Notice

Notice of the time, date, location and nature of each setting shall be given to each party in writing, in person, by mail, or by email to the last known address of a party or counsel. A copy of each notice shall be included in the case file and marked as to the manner of its delivery.

5.3 Verbal Representations

Reliance by any party upon verbal representations from any Court personnel or a police officer concerning any matter shall not be considered grounds for

continuance, setting aside a warrant or judgment, dismissal of any case or any other relief.

5.4 Complaint

A copy of the complaint will be made available to the Defendant or Counsel upon request in open court, at the court window, or by email. A complaint will not be required until a plea of “not guilty” is entered by Defendant or a case is scheduled for a pre-trial setting.

RULE SIX: MOTIONS

6.1 Motions for Continuance

- a. All Motions for Continuance shall be in writing and shall be filed with the Court Clerk in which the case is set at least **three (3) days prior** to the scheduled court date.
- b. In all cases, the ruling on a Motion for Continuance shall be at the discretion of the Judge. The court, as a matter of policy, will grant one continuance per party without agreement of the opposing party and without the requirement of posting a bond. Additional resets must be approved by the Judge.
- c. Continuances are governed by Chapter 29 of the Texas Code of Criminal Procedure. These rules supplement and do not replace the provisions of the Code of Criminal Procedure.
- d. **Form.**
Each Motion for Continuance shall contain:
 - 1) The Cause Number;
 - 2) The name of the Defendant;
 - 3) The date and time of the setting for which the continuance is sought;
 - 4) The specific facts justifying the continuance. If the reason for the continuance is a conflict with a setting in another court, the Motion shall contain the Style and Cause Number of the other case, as well as the Court Number and time of the conflict;
 - 5) An oath attesting to the truth of the matters contained in the Motion; and
 - 6) A proposed order for the Judge to designate whether the motion is “Granted” or “Denied.”
- e. **Emergency Motion for Continuance.** Where the underlying facts (good cause) which form the basis for a Motion for Continuance were not discovered and could not have been discovered through the exercise of due diligence, an emergency Motion for Continuance may be filed. Such Motion may be filed at any time prior to the scheduled court date and will be ruled on by the Judge at the call of the docket.

- f. Forum. In all cases, the ruling on a Motion for Continuance shall be at the discretion of the Judge of the Court where the case is set to be heard.
- g. Denied Motions. If a Defendant's Motion for Continuance is denied, Defendant may be required by the Court to post a bond to avoid a warrant being issued in the case. It is the responsibility of the *Pro se* Defendant or the Counsel for Defendant to determine whether the Motion was granted or denied and to determine whether a bond is required. If a State's Motion for Continuance is denied, the case will proceed to trial, plea or other disposition.

6.2 Motions to Withdraw

Any attorney who makes an appearance on behalf of a Defendant shall be deemed the attorney of record for that Defendant until a written Motion to Withdraw is filed by that attorney and is granted by the Judge or the case is disposed of by trial, plea, deferred disposition or driver safety granted, dismissal or substitution of counsel. Absent a motion for withdraw or substitution, the appearance of another attorney on the case shall be deemed the appearance by co-counsel.

- a. Withdrawal without a Hearing. A Motion to Withdraw as Counsel of record may be granted without a hearing only if the moving attorney files a verified certificate stating the last known mailing address of the Defendant and describes what efforts have been made to locate the Defendant or if Counsel files along with the Motion a written consent to the withdrawal signed by the client which consent acknowledges that the Defendant has been advised of all future court settings.
- b. Withdrawal with a Hearing. If the requirements of Rule 6.2(a) are not satisfied, a Motion to Withdraw must be presented to the Court at a hearing after notice to the Defendant and to all other parties.

6.3 Motion Substitution of Counsel

A Motion to Substitute Counsel shall be signed by the attorney who currently represents the Defendant as well as the attorney who wishes to undertake representation of the Defendant. The Motion must include an affirmative statement that the Defendant has consented to the substitution. If a Motion to Withdraw as Counsel for Defendant also contains a Motion to Substitute Counsel, a Notice of Appearance by another Attorney, and a written agreement by the State, the requirements of Rule 5.3.1 are satisfied and the Attorney named in the Motion to Substitute will thereafter be considered by the court as Attorney of record for the Defendant.

6.4 Pre-trial Motions

All pre-trial motions shall be filed in writing at least ten (10) days prior to trial date and responses thereto, if any, shall be filed at least three (3) days prior to trial date. If a Pre-trial Motion has not been ruled on before the trial date, such Motion shall be heard on the date of trial. Each Motion or Response shall contain a certificate of service signed by the Movant or Respondent indicating that a copy of such Motion or Response has been served upon the opposing party, the manner of service and the date of service.

6.5 Motion for Discovery

- a. All requests for discovery by the Defendant to the Prosecutor must be in writing and an extra copy must be filed with the Court so the Discovery Request can be placed in the court's file.
- b. The Prosecutor shall provide discovery to all defendants in accordance with Article 39.14, Texas Code of Criminal Procedure.
- c. For a defendant represented by counsel, and upon a timely request from the defendant's counsel, the Prosecutor shall produce to the defendant, without the necessity of a court order, any and all evidence material to any matter involved in the case that is in the possession, custody, or control of the state or any person under a state contract.
- d. All *pro se* defendants can request discovery through a formal written discovery motion to the Court or, alternatively, can make a written evidence request to the Prosecutor, who shall forward a copy of defendant's request for discovery to the court, so that it can be reduced to an order.
- e. The State shall produce and permit inspection but is not required to provide a *pro se* Defendant electronic duplicates of any documents or other information, and any inspection shall be in the presence of a representative of the State.
- f. The Prosecutor shall provide a written inventory list of all discovery items produced to the defendant to the Court, so the Court can note this production of evidence in the court's file.

RULE SEVEN: ATTORNEY PRE-TRIAL DOCKETS (“APT”)

7.1 Attorney Pre-Trial Dockets

The purpose of the Attorney Pre-Trial Docket (APT) is to resolve cases prior to trial and to set for trial those cases that cannot be resolved. It is the responsibility of the

Attorney of Record to advise his/her client of the terms of judgment entered against the client as a result of a plea agreement.

7.2 First Attorney Pre-Trial Setting

Defendant, unless a juvenile, is not required to appear with attorney. If a plea is not entered, the case will be reset to a second APT setting.

7.3 Second Attorney Pre-Trial Setting

This setting is for the disposition of the case. Defendant is required to appear if a plea of Not Guilty is to be entered and the Defendant wishes to have a bench or jury trial. Defendant is also required to appear if requesting community service. If a trial is requested, it will be set for a future date. The Defendant is not required to appear if a plea of Nolo Contendere or Guilty is entered and the Defendant wishes to take an option of Deferred Disposition or a Driving Safety Course, all the fees and necessary paperwork must be submitted before or at the time of the Second APT setting. If the Defendant does not appear or an option is not taken by the Defendant's attorney, the Defendant will be deemed to have failed to appear and a warrant will be issued. If the Defendant fails to appear, a Driving Safety Course, will no longer be an option and the Deferred Disposition option will only be granted at the maximum fine amount.

7.4 Failure of Defendant to Appear At Second Attorney Pre-Trial Setting

If the Defendant or his/her attorney fails to appear on the second APT setting and an appearance bond is subsequently filed, the case will be reset for a final APT setting. If an appearance bond has already been filed in the case, a cash bond must be posted to put the case back on an APT docket. The rules stated above for the second APT setting will apply to those cases set to a final APT setting, with the additional requirement that the defendant must personally appear at all final APT settings. If the defendant or his/her attorney has posted an appearance bond and fails to appear on a final APT setting, a warrant will be issued for the defendant and the defendant will be required to post a cash bond to have the case reset on a final APT setting.

7.5 Reset to APT

A case will not be reset to the APT docket without the permission of the Judge. All other cases must either be resolved at APT or set for trial. Any other exceptions will be determined by the Judge calling the APT docket. No case will be set for a jury trial without an appearance by an attorney of record at the APT. Once a case is set for jury trial, the Defendant's appearance at each subsequent setting shall be required until the case is finally disposed of by way of the entry of a final judgment.

7.6 Attorneys to Appear Timely

Any Attorney appearing at the APT on behalf of a Defendant shall appear timely at the start of the APT. Any Attorney not appearing at the start of the APT due to exigent circumstances shall give notice to the Court Clerk by telephone (972-468-4250)indicating the estimated time of arrival and reason for not appearing timely.

7.7 Posting of Attorney (Surety) Bond

Per the provisions of Texas Occupations Code § 1704.163, a duly licensed Texas attorney executing a bail bond or acting as a surety for a Defendant shall be required to file a notice of appearance as counsel of record in the case for which the bond was executed or surety provided. Every case in which a bond was executed or surety was provided by a duly licensed Texas attorney shall be placed on the APT.

RULE EIGHT: PRE-TRIAL CONFERENCE/HEARING

8.1 Mandatory Pre-Trial Conference

All cases set for Trial by Judge or Trial by Jury shall be set for a mandatory Pre-Trial conference with the prosecutor. At the pre-trial conference the Defendant will be given an opportunity to speak with the prosecutor and be made aware of options in lieu of trial. The Defendant must be advised that all pre-trial motions and discovery requests must be made before the Court at the pre-trial conference.

8.2 Pre-Trial Motions

Pre-Trial motions shall be filed in accordance with Rule 6.4 in all cases where a Defendant claims there are legal issues involving the sufficiency of the criminal complaint or the law from which the complaint is drawn. Failure to file pre-trial motions as prescribed in Rule 6.4 shall constitute a waiver of having those issues heard before trial.

RULE NINE: JUVENILE PROCEEDINGS AND MINORS

9.1 Juvenile Defined

A juvenile is a Defendant who is at least 10 years of age and is younger than 17 years of age.

9.2 Entering a Plea

A juvenile must enter his/her plea in open court with a parent or guardian present.

9.3 Notice of Current Address

The parents and the juvenile have a continuing obligation to give written notice of their current address and any change of address.

9.4 Minor in Possession and other Alcoholic Beverage Code Violations

A minor (anyone under the age of 21 years at the time of the alleged violation) may only enter a plea to an Alcohol Beverage Code violation in open court.

RULE TEN: TRIAL SETTINGS

10.1 Trial Request

A plea of “not guilty” may be made at the Defendant’s first appearance in court or by written request prior to the first appearance date on the citation. Upon making a request for trial, a pre-trial conference shall be scheduled by the Court.

10.2 Current Address

Upon making a request for trial, a *Pro-se* Defendant shall provide the court with a current mailing address and a current phone number. Attorneys of record shall provide the court his/her name, current office and mailing address, current telephone number, Fax number (if any), and bar card number. If a Defendant or attorney changes his/her address or telephone number prior to trial, they are required to immediately notify the Court of the change.

10.3 Defendant Must Attend Trial Dockets

Every Defendant shall be present at the call of every trial docket, unless his/her attorney has filed and been granted a Motion for Continuance. Every *Pro-se* Defendant shall be present at the call of his/her trial docket, unless he/she has filed and been granted a Motion for Continuance. Once a case has been set for trial whether by judge or jury, thereafter, the Defendant shall be present at every setting of the case until the case is finally disposed of by entry of a judgment.

10.4 Failure to Appear

If a Defendant and/or defendant’s attorney of record is not present in the courtroom at the time the case is called to trial, the Court may issue a warrant for the Defendant’s arrest. If an attorney fails to appear, the arrest warrant will be issued in the name of the Defendant. The Defendant will be required to post a cash bond in the total amount of the fine, court costs, and any other fees unless the Defendant or Defendant’s attorney can show good cause for failing to appear.

RULE ELEVEN: POST TRIAL PROCEEDINGS

11.1 Motion for New Trial

A written motion for new trial must be filed in writing with the court not later than the tenth (10th) day after the date on which judgment is rendered. Motions for new trials and appeals are governed by the Texas Government Code.

11.2 Appeal Bond

An appeal bond is required to perfect an appeal from the Municipal Court. The amount of the bond must be two times the amount of the fine and costs adjudged against the Defendant. All appeal bonds require the signature and address of the defendant and must be in compliance with Chapter 17 of the Texas code of Criminal Procedure. An appeal bond must be approved by the Court and must be filed not later than ten (10) days after the date the judgment was entered.

11.3 Inability to Pay Fine

If a Defendant does not appeal the Court's decision, but claims indigency, the Defendant may request an indigency hearing and complete an application for time payment plan to request community service. At that hearing, Defendant shall be required to show cause why he/she cannot discharge the fine by making payments and shall request community service hours, if available, in lieu of payment.

11.4 Capias Pro Fine

If a Defendant does not pay a fine in full, or does not meet all obligations of an installment payment plan or does not discharge the fine by performing community service as ordered by the Court, a *capias pro fine* is paid in full either by payment of the entire amount owed or by serving time in jail until the full amount is paid through jail time credit.

ADOPTION

The foregoing Local Rules of the Municipal Court of the City of Murphy, Texas are adopted on this the 23rd day of July, 2014.

Natalie Banuelos, Presiding Judge